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312066 0270 7816 2 COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

DIVISION OF INSURANCE

SUFFOLK, ss.

Docket F99-05

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IN THE MATTER OF THE ACQUISITION OF CONTROL OF  
HOLYOKE MUTUAL INSURANCE COMPANY BY  
COUNTRY MUTUAL INSURANCE COMPANY

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MEMORANDUM OF DECISION AND ORDER

Introduction and Procedural History

On November 9, 1999, Country Mutual Insurance Company, an Illinois domestic mutual company ("Country"), pursuant to M.G.L. c. 175, § 206B, submitted a Form A, as prescribed in 211 CMR 7.00, to the Massachusetts Division of Insurance ("the Division") seeking approval of its plan to acquire control of Holyoke Mutual Insurance Company ("Holyoke"), a Massachusetts domiciled mutual insurance company. The proposed change of control is pursuant to the terms of a written agreement ("Alliance Agreement") entered into between Country and Holyoke on September 1, 1999, and to those of the transactions referenced in and contemplated by the Alliance Agreement.

In general, the change of control proposed in Country's Form A filing results from a transfer to Country of control of the Holyoke board of directors, with both the chairman of the Holyoke board and its general counsel being Country's appointees. In return for ceding such control to Country, Holyoke will become part of a reinsurance pooling arrangement whereby Holyoke would pool its insurance business with that of Country and other insurance companies associated with Country. In addition, Holyoke will enter into service agreements with Country and with a Country affiliate.



## Public Hearing

As part of the Commissioner's statutory review of Country's Form A filing, a public hearing was held on December 1, 1999 at the Division's offices at One South Station, Boston, Massachusetts. That public hearing had been publicized, in compliance with the Commissioner's instructions, in *The Boston Globe*, *The Boston Herald*, and *The Salem Evening News*. Notice of the public hearing was also sent by Country to Holyoke's principal executive officers, and was posted at Holyoke's principal place of business in a conspicuous location. Appearing at the hearing were: Robert J. McDade, Esq. (from Country's General Counsel's Office); Barnett D. Ovrut, Esq. and Edward J. Donahue, Esq., both of Morrison, Mahoney & Miller, LLP, (representing Holyoke); Charles L. Jones (Senior Vice President and Chief Financial Officer of Country); Richard A. Bill (Country's actuary); and Douglas C. Ryder (President and CEO of Holyoke).

No policyholder of Country or Holyoke appeared at, or applied to participate in, the public hearing.

## Discussion

From the testimony of Messrs. Jones, Bill and Ryder, and from the Division's review and analysis of the documents filed by Country as part of, and in connection with, the Form A filing, the following is presented for approval:

On September 1, 1999 Holyoke and Country entered into the Alliance Agreement<sup>1</sup>. The major aspects of the transaction set forth in the Alliance Agreement include: (a) the ceding of control of the Holyoke board of directors to Country; (b) a reinsurance pooling arrangement, in which the two companies will share underwriting results<sup>2</sup>; (c) two service agreements which will allow Holyoke to take advantage of cost savings through intercompany services and joint purchasing of goods and services; and (d) the placing of certain limits on the changes that

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<sup>1</sup> The Holyoke board had unanimously approved the transaction on August 31, 1999.

<sup>2</sup> Country became an accredited reinsurer in Massachusetts, pursuant to M.G.L. c. 175, § 20A and 211 C.M.R. 130.0, et seq., effective November 29, 1999.





Country can make to the organization and operation of Holyoke during the period January 1, 2000 through January 1, 2005.

Control of the Holyoke board of directors is to be transferred to Country by the following means. After the voluntary resignations of 6 designated Holyoke directors (there are 10 directors on the Holyoke board) Country will be given the right to nominate replacements for the vacated seats, each replacement to serve out the unexpired term of his or her predecessor. Country's nominations will be subject to the affirmative vote of Holyoke policyholders and guaranty stockholders at the policyholder annual meeting, held on the fourth Tuesday in January of every year. With its 6 seats on the Holyoke board, Country will control how Holyoke is managed; however, both parties have limited the exercise of such control over the next 5 years. Until January, 2005, Article V.D.1. of the Alliance Agreement requires a four-fifths super majority vote before the Country-controlled Holyoke board can change Holyoke's separate corporate existence or its existing corporate name, move its corporate headquarters out of Salem, Massachusetts, change Holyoke's domicile, change its current employee benefits programs or personnel policies, or reduce Holyoke's donations to local charities and civic organizations below \$50,000.

The Reinsurance Pooling Agreement (which permits termination by either party upon 180 days written notice) provides for Holyoke to cede to Country 100% of Holyoke's net unearned premium reserve, net loss reserve, loss adjustment expense reserve, contingent commission reserve and other expense reserves, less certain specified adjustments. These will be combined with Country's own business, and that of Middlesex Mutual Assurance Company (a Connecticut domiciled insurance company affiliated with Country) in a reinsurance pool. Country will cede from the pool a portion of the pool's net unearned premium reserve, net loss reserve, loss adjustment expense reserve, contingent commission reserve and other expense reserves, less certain specified adjustments. Holyoke's portion of the pool will be based, generally, on Holyoke's surplus relative to the pool's surplus. Based on 1998 figures, Holyoke's pool percentage would be 5.73%. Both Holyoke and Country believe that this pooling will improve Holyoke's economies of scale, drive down expenses and make Holyoke more competitive, thereby increasing its long-term viability. They expect Holyoke's premium-to-




surplus ratio to improve from approximately 1.3:1 to 0.8:1, and they expect their combined premium-to-surplus ratios to be maintained under a 1:1 ratio.

In addition, the parties believe that the reinsurance arrangement provides opportunities for Country and Holyoke to sell additional products like life insurance and annuities to Holyoke's policyholders. However, the marketing of these additional products, as well as the products currently available from Holyoke, is anticipated to be through Holyoke's existing, independent agent force, with underwriting and claims handled by Holyoke, much as it is now.

A. M. Best Co., Inc. has led both parties believe that as a result of this reinsurance pooling, it will raise Holyoke's rating from A- to A+. Moreover, Country and Holyoke expect that the pooling arrangement, in addition to diversifying the geographic exposure of Holyoke's business, will increase its surplus substantially (by about \$4,000,000, based on 1998 figures).

The Alliance Agreement also provides for Holyoke to sign service agreements with Country and with CC Services, Inc. (a subsidiary of Country). Under these agreements, Country and CC Services will provide Holyoke, at cost, with such actuarial, claims, underwriting, financial, marketing, information systems and other services will need from time to time.

At the hearing, it transpired that while both Country and Holyoke anticipated exchanging confidential proprietary information in connection with their several associations arising out of the Form A transactions, neither had made specific provision as to the handling of each other's confidential information in the event that these associations terminate. Both Mr. McDade and Mr. Ovrut, for their respective clients, indicated that in the event of such termination, each will return to the other any documents or things that embody the other's proprietary information, and will not use that information in the future. Because this proffered obligation has not been the subject of any written agreement between the parties, we have made our disposition of this Form A application conditional upon such a written agreement being concluded.



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## Findings

Pursuant to M.G.L. c. 175, §206B(d)(1) the Commissioner *must* approve a change of control unless she finds that :

(i) after the change of control, the domestic insurer referred to in said subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this commonwealth or tend to create a monopoly therein;

(iii) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) the terms of the offer, request, invitation, agreement of acquisition referred to in said subsection (a) are unfair, and unreasonable to the policyholders of the insurer;

(v) the plans or proposals which the acquiring company has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(vi) the competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of the policyholders or the insurer and of the public to permit the merger or other acquisition of control;

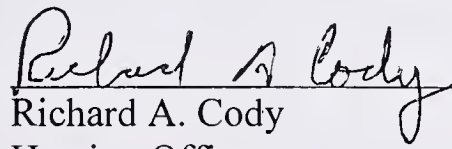
(vii) the acquisition is likely to be hazardous or prejudicial to the insurance buying public.

I have not been presented, either in the record presented at the hearing (including testimony, exhibits, and docket entries) or in the analysis of the statutorily mandated financial and other filings, with any evidence which, fairly considered, would support any of the above findings. Accordingly, Country's Form A application is hereby **APPROVED**, conditional upon Country and Holyoke entering into a written agreement, prior to any closing of any of the



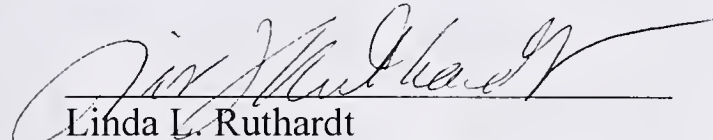
approved transactions, that provides, in the event of the termination or expiration of the Reinsurance Pooling Agreement and/or the Alliance Agreement, for the return by each party to the other party of all documents and things embodying Confidential Information of the other party (as that term is defined in the Alliance Agreement). Moreover, the written agreement shall also prohibit each party from using in whole or in part the Confidential Information of the other party in its own behalf, or in behalf of any third party without the prior written consent of the party who is the owner of such Confidential Information.

Dated: December 14, 1999

  
Richard A. Cody  
Hearing Officer

I hereby affirm the above.

Dated: December 14, 1999

  
Linda L. Ruthardt  
Commissioner of Insurance

Any person aggrieved by any act, determination, rule, regulation, or order or any other action of the commissioner pursuant to sections two hundred and six to two hundred and six D, inclusive, may appeal therefrom to the superior court department of the trial court for Suffolk County. M.G.L. c. 175, §206D.

